

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03

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FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC PRIORITY 2217

INFO AMCONSUL MONTREAL PRIORITY

AMCONSUL QUEBEC PRIORITY

C O N F I D E N T I A L OTTAWA 0261

POUCHED ALL OTHER AMCONSULS CANADA

E.O. 11652: GDS

TAGS: PGOV, PINT, CA

SUBJECT: TRUDEAU REVIVES CONSTITUTIONAL PATRIATION ISSUE

REF: A. 76 OTTAWA 3994, B. 1976 OTTAWA 1557

1. SUMMARY. IN LETTER TO PROVINCIAL PREMIERS, PM TRUDEAU HAS REVIVED CONSTITUTIONAL PATRIATION ISSUE BY PROPOSING PATRIATION AND AN AMENDING FORMULA AND EXPRESSING FEDERAL WILLINGNESS TO DISCUSS LATER THE DIVISION OF POWERS BETWEEN OTTAWA AND PROVINCES. INITIAL MEDIA REACTION TO TRUDEAU PROPOSALS IS CRITICAL. WE ALSO SEE SEVERAL FLAWS IN HIS LATEST APPROACH TO THIS ISSUE. END SUMMARY.

2. IN LONG LETTER RELEASED JANUARY 21, PM TRUDEAU REOPENED BRITISH NORTH AMERICA ACT (BNA) PATRIATION ISSUE WITH PACKAGE OF PROPOSALS TO PROVINCIAL PREMIERS. TRUDEAU'S INITIATIVE COMPRISES TWO-STAGE APPROACH. FIRST STEP WOULD BE TRANSFER OF CANADIAN CONSTITUTION FROM BRITISH PARLIAMENT TO JURISDICTION OF CANADIAN PARLIAMENT WITH AMENDING FORMULA ALONG LINES OF 1971 VICTORIA FORMULA (REF B). FIRST STEP WOULD ALSO INCLUDE CONSTITUTIONAL CHANGES
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INVOLVING THE SENATE, LANGUAGE RIGHTS, REGIONAL DISPARITIES AND ANNUAL FEDERAL/PROVINCIAL FIRST MINISTERS' MEETINGS. SECOND STEP (AFTER FIRST STEP ACCOMPLISHED) WOULD BE FULL REVIEW OF FEDERAL-PROVINCIAL DIVISION OF POWERS.

3. CONSTITUTIONAL CHANGES PROPOSED FOR FIRST STEP

PATRIATION INCLUDE A LANGUAGE GUARANTEE PROVISION WHICH WOULD PROHIBIT ANY OTTAWA ACTION ENDANGERING PRESERVATION OF EITHER ENGLISH OR FRENCH LANGUAGE. THERE IS NO MENTION OF "CULTURE" IN THE PROVISION SINCE, ACCORDING TO FEDERAL OFFICIALS, THIS WORD IS TOO VAGUE FOR PRECISE DEFINITION. ENLARGED SENATE WOULD BE PROVIDED IN REVISED CONSTITUTION WITH INCREASE IN SEATS GOING TO UNDER-REPRESENTED WEST. THERE WOULD ALSO BE A GUARANTEE OF ANNUAL FEDERAL-PROVINCIAL FIRST MINISTERS' MEETING UNLESS MAJORITY OF PROVINCIAL GOVERNMENTS FELT A MEETING WAS UNNECESSARY. FINALLY, ON REGIONAL DISPARITIES QUESTION, THERE WOULD BE A CLAUSE COMMITTING GOVERNMENTS TO PROMOTE "ECONOMIC DEVELOPMENT TO REDUCE REGIONAL DISPARITIES" AND TO ENSURE "AS NEARLY AS POSSIBLE, THAT ESSENTIAL PUBLIC SERVICES OF REASONABLE QUALITY ARE AVAILABLE TO ALL INDIVIDUALS IN CANADA".

4. FEDERAL OFFICIALS HAVE REPORTEDLY INDICATED THAT FEDERAL GOVERNMENT WILL NOT MOVE UNILATERALLY TO PATRIATE CONSTITUTION WITHOUT UNANIMOUS PROVINCIAL AGREEMENT.

5. COMMENT. WE ARE NOT INCLINED TO BE AS CRITICAL AS SYNDICATED COLUMNIST CHARLES LYNCH, WHO DESCRIBED LATEST PATRIATION PACKAGE AS TRUDEAU FIDDLING WHILE ALL ABOUT HIM BURNS, BUT WE DO SEE SEVERAL POTENTIAL FLAWS IN PM'S APPROACH. FIRST, HIS AMENDING FORMULA ALONG LINES OF 1971 VICTORIA FORMULA APPEARS TO BE NON-STARTER. ALBERTA PREMIER LOUGHEED AND BC PRMIER
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BENNETT HAVE INSISTED ON VETO FOR THEIR PROVINCES AND NO SUCH PROVISION IS CONTAINED IN VICTORIA FORMUAL. SECOND, POSTPONING DISCUSSION OF DIVISION OF FEDERAL-PROVINCIAL POWERS UNTIL AFTER PATRIATION ALSO STRIKES US AS UNREALISTIC. LAST PREMIERS' MEETING ON THIS ISSUE (REF A) RESULTED IN NO AGREEMENT ON PATRIATION OR AMENDING FORMULA, BUT IT DID PRODUCE AGREEMENT ON VARIETY OF PROPOSALS FOR GREATER PROVINCIAL POWER. PQ VICTORY IN INTERIM AND CURRENT VOGUE OF "DECENTRALISM" AS A COUNTER TO SEPARATIST THREAT ARE LIKELY TO INCREASE PROVINCIAL INSISTENCE ON MORE POWERS SOONER RATHER THAN LATER. FINALLY, IT SEEMS UNLIKELY TO US THAT PQ GOVERNMENT IN QUEBEC WILL BE ACCOMMODATING ON PATRIATION ISSUE WHICH IS A PERSONAL CRUSADE OF TRUDEAU, AND FEDERAL OFFICIALS ADMIT QUEBEC'S RESPONSE WILL BE CRUCIAL.

6. OBSERVERS HERE ARE PUZZLED WHY TRUDEAU CHOSE NOW TO ADVANCE THESE PROPOSALS WHICH SEEM UNLIELY TO GET

ANYWHERE. PATRIATION IS OBVIOUSLY MATTER CLOSE TO TRUDEAU'S HEART, AND PERHAPS HE WANTED TO GIVE IT ONE LAST TRY ON OUTSIDE CHANCE THAT COMPROMISE COULD BE WORKED OUT WITH PROVINCES. WHATEVER HIS REASONS, PATRIATION IS NOT A BURNING ISSUE FOR MOST CANADIANS, AND BY REVIVING THIS ISSUE AGAIN HE HAS HELPED TO REINFORCE IMPRESSION THAT HE IS OUT OF TOUCH WITH PUBLIC SENTIMENT.
ENDERS

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Message Attributes

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